

SENATE BILL 3658

By Fowler

AN ACT to amend Tennessee Code Annotated, Title 54,
Chapter 5, relative to utility district construction
projects.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 54-5-804(a), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(a) The commissioner is authorized to reimburse a utility for the cost of relocation, and to include such cost as a highway construction project cost, where the cost of relocation arises from the relocation of a utility facility located on a public highway right-of-way and the highway construction project is undertaken by the department, subject to the following conditions:

(1)

(A) The utility shall fully comply with all provisions of §54-5-854(b), including the preparation and submission to the department of the utility's relocation plan, cost estimate and schedule of calendar days for completing the relocation, within the time period specified or within such additional time as may be allowed under §54-5-854(b); and

(B) The utility shall either:

(i) Enter into a written agreement with the commissioner to include the relocation as a part of the department's highway construction contract; provided, however, that such agreement may provide that the utility shall perform certain relocation work with its own union employees as required under a negotiated

organized labor contract; but, in such case, the utility shall be required to reimburse the department for all relocation costs if it fails to timely perform its relocation work as provided in the agreement with the commissioner; or

(ii) Enter into a written agreement with the commissioner to remove all utility facilities that conflict with the highway construction, as determined by the department, prior to the letting of the department's construction contract, and otherwise perform and complete the utility relocation in accordance with approved relocation plans and schedule of calendar days; provided, however, that such agreement may provide that, in the event that the department does not undertake the highway construction project within a specified time, the utility shall be reimbursed for such relocation work as it has timely performed in accordance with the approved plans and schedule.

(C) Notwithstanding any other provision of law to the contrary, the utility shall be responsible, at its own expense, to inspect all phases of the utility relocation to ensure that the removal, installation, or removal and installation of the utility facility is done in accordance with all applicable specifications and safety codes; or

(2) Notwithstanding any provision of law to the contrary,

If a utility is chartered as a not-for-profit corporation or is owned by a unit of local government; and

If such utility has fewer than five hundred (500) customers; and

If such utility filed for bankruptcy on or after July 1, 1991; and

If such utility is obligated for costs arising on or after May 28, 1997, from relocation of water lines in conjunction with a highway project; then

The commissioner of transportation shall reimburse such utility for all remaining costs presently owed with regard to such relocation of water lines.

The utility shall certify to the commissioner, subject to review of the comptroller of the treasury, the number of customers for each utility described above.

SECTION 2. This act shall take effect July 1, 2006, the public welfare requiring it.